

**REMARKS**

***Formal Matters***

Claims 1-3 and 5-9 constitute all currently pending claims in the Application.

Applicant thanks the Examiner for acknowledging the receipt of priority documents submitted under 35 U.S.C. § 119, and for accepting the drawings filed on October 23, 2003.

***Claim Rejections Under 35 U.S.C. § 102***

Claims 1-3 and 5-9 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 7,225,271 to DiBiasio et al. (“DiBiasio”). Applicant traverses this rejection for at least the following reasons.

In the Amendment filed on September 11, 2007, Applicant asserted that claim 1 was not taught by DiBiasio. The Examiner appears to disagree with those assertions in the instant Office Action; however, the Examiner fails to provide reasoning sufficient to maintain the present rejection.

Claim 1 requires that “each queue of said plurality of queues is controlled by a queue manager adapted to discard packets coming from said packet classifier when a predetermined threshold filling level of the queue is reached.” This element of claim 1 contains a number of requirements untaught by DiBiasio. For example, this portion of claim 1 requires, inter alia, that it is the “queue manager” which is adapted to “discard packets.” Furthermore, the claimed packets must be discarded “when a predetermined threshold filling level of the queue is reached.”

First, the Examiner fails to show that DiBiasio teaches a “queue manager” adapted to “discard packets.” In the “Response to Arguments” section of the instant Office Action, the Examiner asserts that “DiBiasio discloses that RSVP engine performs admission control,” citing

col. 11, lines 5-6 of DiBiasio. (Office Action at 7.) The Examiner further asserts that “RSVP engine directs the classification engine to place packets in priority queue,” citing col. 12, lines 6-8 of DiBiasio. (Id.) The Examiner, thus, appears to assert that because the RSVP engine may deny a reservation request, this aspect of DiBiasio is sufficient to teach a “queue manager” adapted to “discard packets.” The RSVP engine of DiBiasio, however, is clearly not a “queue manager.” In fact, the Examiner clearly concedes this point, stating that “[a]s shown in Fig. 5, Queue selector 510 manages the queues Q1-Q4.” (Id.) Thus, the Examiner fails to assert that the component of DiBiasio identified by the Examiner as corresponding to the “queue manager” of claim 1, namely the queue selector 510, discards packets in the manner required by claim 1.

With respect to the arguments above, Applicant respectfully submits that the Examiner has not sufficiently addressed Applicant’s argument as presented in the Amendment filed on September 11, 2007. For example, Applicant clearly stated that “the RSVP engine for 24 is not a queue manager because it does not manage the queues the Examiner associates with the queues of claim 1.” As set forth above, the Examiner again fails to assert that the RSVP engine of DiBiasio manages the queues.

Applicants also respectfully note that “[w]here the Applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the Applicant’s argument and answer the substance of it.” MPEP § 707.07(f) (emphasis added). Since the Examiner has failed to directly address this argument, thereby delaying prosecution, Applicant respectfully requests that the finality of the present Office Action be withdrawn.

Second, nothing in DiBiasio appears to contemplate discarding packets “when a predetermined threshold filling level of the queue is reached.” DiBiasio contains no discussion of a threshold, and the Examiner has failed to assert that this requirement of claim 1 is met. At

best, DiBiasio merely suggests the possibility of the PQ becoming full, in which case packets may be dropped. (DiBiasio at col. 12, lines 17-19.) Applicant emphasizes that DiBiasio contains no teaching of an intentional discarding of packets by a queue manager, and contains no teaching that packets should be intentionally discarded “when a predetermined threshold filling level of the queue is reached.” Applicant, further, respectfully points out that the recitation of “a predetermined threshold filling level” in claim 1 is clearly supported in the specification, for example in elements T0-T3 of the non-limiting exemplary embodiment depicted in Fig. 1. In contrast, there appears to be no mention whatsoever of a predetermined threshold filling level in DiBiasio.

Thus, DiBiasio fails to teach each and every required element of claim 1, and therefore, fails to anticipate claim 1. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection.

### ***Conclusion***

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

This Application is being filed via the USPTO Electronic Filing System (EFS).

Applicants herewith petition the Director of the USPTO to extend the time for reply to the above-identified Office Action for an appropriate length of time if necessary. Any fee due under 37 U.S.C. § 1.17(a) is being paid via the USPTO Electronic Filing System (EFS). The USPTO is also directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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